Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered				
SERIAL NUMBER	86432908				
LAW OFFICE ASSIGNED	LAW OFFICE 112				
MARK SECTION					
MARK	http://tmng-al.uspto.gov/resting2/api/img/86432908/large				
LITERAL ELEMENT	COOK'S SUPPLY CO.				
STANDARD CHARACTERS	YES				
USPTO-GENERATED IMAGE	YES				
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.				
EVIDENCE SECTION					
EVIDENCE FILE NAME(S)					
ORIGINAL PDF FILE	evi_38104128234-20160308144546109689 _ OAR - _COOK_S_SUPPLY_COCl09 _ Amend_to_SuppRegisterpdf				
CONVERTED PDF FILE(S) (6 pages)	\\TICRS\EXPORT16\IMAGEOUT16\864\329\86432908\xml10\RFR0002.JPG				
	\\\TICRS\EXPORT16\IMAGEOUT16\864\329\86432908\xml10\RFR0003.JPG				
	\\TICRS\EXPORT16\IMAGEOUT16\864\329\86432908\xml10\RFR0004.JPG				
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DESCRIPTION OF EVIDENCE FILE	a Response and accompanying exhibit				
ADDITIONAL STATEMENTS SECTION					
SUPPLEMENTAL REGISTER	The applicant seeks registration of the mark on the Supplemental Register (i.e., a change of the words 'Principal Register' to 'Supplemental Register'). NOTE: The applicant has separately filed an Allegation of Use, to change the basis of this application from Section 1(b), intent-to-use, to Section 1(a), use in commerce.				
SIGNATURE SECTION					
RESPONSE SIGNATURE	/Jaclyn T. Shanks/				
SIGNATORY'S NAME	Jaclyn T. Shanks				
SIGNATORY'S POSITION	Associate Attorney, Kilpatrick Townsend & Stockton LLP, Georgia bar member				
SIGNATORY'S PHONE NUMBER	(404) 815-6500				
DATE SIGNED	03/08/2016				
AUTHORIZED SIGNATORY	YES				

CONCURRENT APPEAL NOTICE FILED	NO			
FILING INFORMATION SECTION				
SUBMIT DATE	Tue Mar 08 15:29:19 EST 2016			
TEAS STAMP	USPTO/RFR-XX.XXX.XXXXXX2 20160308152919891434-8643 2908-5506893f79f3e84dd23e 621fdda3cefafd1b7891da057 9c2a49368e402dd8452b-N/A- N/A-20160308144546109689			

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO Form 1960 (Rev 10/2011)

OMB No. 0651-0050 (Exp 07/31/2017)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **86432908** COOK'S SUPPLY CO.(Standard Characters, see http://tmng-al.uspto.gov/resting2/api/img/86432908/large) has been amended as follows:

EVIDENCE

Evidence in the nature of a Response and accompanying exhibit has been attached.

Original PDF file:

evi_38104128234-20160308144546109689_.OAR_-_COOK_S_SUPPLY_CO.__Cl._09___Amend_to_Supp._Register_.pdf

Converted PDF file(s) (6 pages)

Evidence-1

Evidence-2

Evidence-3

Evidence-4

Evidence-5

Evidence-6

ADDITIONAL STATEMENTS

Supplemental Register

The applicant seeks registration of the mark on the Supplemental Register (i.e., a change of the words 'Principal Register' to 'Supplemental Register'). NOTE: The applicant has separately filed an Allegation of Use, to change the basis of this application from Section 1(b), intent-to-use, to Section 1(a), use in commerce.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Jaclyn T. Shanks/ Date: 03/08/2016

Signatory's Name: Jaclyn T. Shanks

Signatory's Position: Associate Attorney, Kilpatrick Townsend & Stockton LLP, Georgia bar member

Signatory's Phone Number: (404) 815-6500

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 86432908

Internet Transmission Date: Tue Mar 08 15:29:19 EST 2016

TEAS Stamp: USPTO/RFR-XX.XXX.XXX.XXX-201603081529198

91434-86432908-5506893f79f3e84dd23e621fd da3cefafd1b7891da0579c2a49368e402dd8452b

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK EXAMINING DIVISION

APPLICANT	•	Ross Stores, Inc.)	
MARK	:	COOK'S SUPPLY CO.)	Kamal Preet
SERIAL NO.	:	86432908)	Examining Attorney Law Office 112
CLASS		09)	

AMENDMENT AND RESPONSE

I. INTRODUCTION

Applicant has received and reviewed the Office Action dated September 8, 2015, from Examining Attorney Kamal Preet, Law Office 112, regarding the above referenced application and provides the following response.

II. AMENDMENT TO REQUEST REGISTRATION ON THE SUPPLEMENTAL REGISTER

Pursuant to Section 2(e)(1) of the Lanham Act, the examining attorney has rejected the application on the ground that the mark COOK'S SUPPLY CO. is merely descriptive of the goods to be provided thereunder. Under Section 23 of the Lanham Act:

All marks capable of distinguishing applicant's goods or services and not registrable on the principal register herein provided, except those declared to be unregistrable under subsections (a), (b), (c), (d), and (e)(3) of section 2 of this Act, which are in lawful use in commerce by the owner thereof ... may be registered on the supplemental register.

15 U.S.C. § 1091(a).

Given that Applicant's mark has not been rejected on one of the grounds enumerated in Section 23 of the Act, Applicant respectfully requests, pursuant to 37 C.F.R. §2.75(a), that its application be amended to request registration on the Supplemental Register, and that the words "Principal Register" be changed to the words "Supplemental Register" on its application.

III. AMENDMENT TO ALLEGE USE

Applicant attaches as Exhibit A for the Examining Attorney's reference a copy of the Amendment to Allege Use and accompanying specimens of use, which Applicant filed on March 1, 2016. Having filed this Amendment to Allege Use, Applicant submits that it has met all requirements for its mark to be eligible for registration on the Supplemental Register.

IV. CONCLUSION

Having fully responded to the matters raised by the Examining Attorney in the Office Action, Applicant respectfully requests that the Examining Attorney's objections be withdrawn, and that Applicant's mark be registered on the Supplemental Register.

Respectfully submitted,

/Jaclyn T. Shanks/

Anthony J. Malutta
Jaclyn T. Shanks
KILPATRICK TOWNSEND &
STOCKTON LLP
Two Embarcadero Center
Eighth Floor
San Francisco, California 94111
(415) 576 0200 (phone)
(415) 576 0300 (fax)

Attorneys for Applicant

EXHIBIT A

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

OMB No. 0651-0054 (Exp 10/31/2017)

Trademark/Service Mark Amendment to Allege Use (15 U.S.C. Section 1051(c))

To the Commissioner for Trademarks:

MARK: COOK'S SUPPLY CO.(Standard Characters, see http://tmng-al.uspto.gov/resting2/api/img/86432908/large)

SERIAL NUMBER: 86432908

The applicant, Ross Stores, Inc., having an address of 5130 Hacienda Drive
Dublin, California 94568
United States
is submitting the following allegation of use information:

For International Class 009:

Current identification: Measuring cups; measuring spoons; measuring bowls

This **allegation of use** does **NOT** cover the following goods/services listed in either the application or Notice of Allowance or as subsequently modified for this specific class; these goods/services are **permanently deleted:**; measuring bowls

The mark is in use in commerce on or in connection with the following goods/services listed in either the application or Notice of Allowance or as subsequently modified for this specific class: Measuring cups; measuring spoons

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 07/00/2015, and first used in commerce at least as early as 07/00/2015, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) image of the product and tag. Specimen File1

The applicant is not filing a Request to Divide with this Allegation of Use form.

The applicant's current Correspondence Information: ANTHONY J. MALUTTA of KILPATRICK TOWNSEND & STOCKTON LLP

2 EMBARCADERO CTR FL 8

SAN FRANCISCO, California 94111-3833

United States

The docket/reference number is 91394-922932.

The applicant's proposed Correspondence Information: ANTHONY J. MALUTTA of KILPATRICK TOWNSEND & STOCKTON LLP

2 EMBARCADERO CTR FL 8

SAN FRANCISCO, California 94111-3833

United States

The docket/reference number is 91394-922932.

The phone number is 415-576-0200.

The fax number is 415-576-0300.

 $The \ email\ address\ is\ amalutta@kilpatricktownsend.com; yeordial@kilpatricktownsend.com; tmadmin@kilpatricktownsend.com.$

A fee payment in the amount of \$100 will be submitted with the form, representing payment for the allegation of use for 1 class.

Declaration

STATEMENTS: The signatory believes that: if the applicant is filing the amendment to allege use under 15 U.S.C. §1051(c) or a statement of use under 15 U.S.C. §1051(d), the applicant is the owner of the mark sought to be registered; the mark is in use in commerce; **for a trademark**

or service mark application, the applicant is using the mark in commerce on or in connection with all the goods/services in the application or notice of allowance, or as subsequently modified; for a collective trademark, collective service mark, collective membership mark application, the applicant is exercising legitimate control over the use of the mark in commerce by members on or in connection with all the goods/services/collective membership organization in the application or notice of allowance, or as subsequently modified; for a certification mark application, the applicant is exercising legitimate control over the use of the mark in commerce by authorized users on or in connection with the all goods/services in the application or notice of allowance, or as subsequently modified, and the applicant is not engaged in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant; that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive; and the specimen(s) shows the mark as used on or in connection with the goods/services/collective membership organization in commerce.

DECLARATION: The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /Priya Sreenivasan/ Date Signed: 03/01/2016

Signatory's Name: Priya Sreenivasan, Esq.

Signatory's Position: Vice President, Commercial Law Signatory's Phone: Contact Attorney of Record

RAM Sale Number: 86432908 RAM Accounting Date: 03/02/2016

Serial Number: 86432908

Internet Transmission Date: Tue Mar 01 17:47:21 EST 2016

TEAS Stamp: USPTO/AAU-XX.XXX.XXX.XXX-201603011747217

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C-4405-20160229210449371565

